

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

**SANTOS B. TORRES AND
GLORIA TORRES**

Plaintiffs,

v.

STATE FARM LLOYDS

Defendant.

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CASE NO. _____

DEFENDANT STATE FARM LLOYDS' NOTICE OF REMOVAL

Defendant **STATE FARM LLOYDS** ("State Farm") files this Notice of Removal.

PROCEDURAL BACKGROUND

1. Plaintiffs SANTOS B. TORRES AND GLORIA TORRES filed this action on August 22, 2019, against State Farm Lloyds, in the 148th Judicial District Court of Nueces County, Texas. That case was docketed under cause number 2019DCV-4222-E (the "State Court Action").
2. State Farm was served with process on September 10, 2019.
3. State Farm filed its Original Answer and Verified Plea in Abatement on October 4, 2019.
4. State Farm timely files this Notice of Removal pursuant to 28 U.S.C. §1446 to remove the State Court Action from the 148th Judicial District Court of Nueces County, Texas, to the United States District Court for the Southern District of Texas, Corpus Christi Division.

NATURE OF THE SUIT

5. This lawsuit involves a dispute over alleged non-payment of insurance benefits and the handling of Plaintiffs' insurance claim. Plaintiffs' claim is for damages allegedly sustained to their property as the result of an August 25, 2017 storm in Nueces County, Texas, damaging Plaintiffs'

property. *See* Plaintiffs' Original Petition.

6. The Original Petition asserts causes of action against Defendant State Farm for breach of contract, violations of Chapters 541 and 542 of the Texas Insurance Code and the Deceptive Trade Practices Act, and breach of the common law duty of good faith and fair dealing, as well as knowing or intentional violations, mental anguish, attorney's fees and court costs. *See* Plaintiffs' Original Petition.

BASIS FOR REMOVAL

7. The Court has jurisdiction over this action under 28 U.S.C. § 1332 because there is and was complete diversity between all real parties in interest (Plaintiffs and State Farm) and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

Diversity of Citizenship

8. At the time the State Court Action was commenced, Plaintiffs are and still are residents and citizens of Texas. *See* Plaintiffs' Original Petition at ¶ 2.

9. Defendant State Farm was at the time this action was commenced, and still is, a citizen of Illinois. State Farm is a "Lloyd's Plan" organized under chapter 941 of the Texas Insurance Code. It consists of an unincorporated association of underwriters who were at the time this action was commenced, and still are, all citizens and residents of Illinois, thereby making State Farm Lloyds a citizen of Illinois for diversity purposes. *See Royal Ins. Co. of Am. v. Quinn-L Capital Corp.*, 3 F.3d 877, 882-83 (5th Cir. 1993) (citizenship of unincorporated association determined by citizenship of members).

Amount in Controversy

10. Plaintiffs' Original Petition fails to include the statement of damages as required by Rule 47 of the Texas Rules of Civil Procedure. The face of the pleading, nevertheless, makes it clear the amount in controversy exceeds the sum of \$75,000.00.

11. Plaintiffs' Original Petition states that Plaintiffs have suffered economic damages of \$41,109.03, and Plaintiffs seek to recover additional and/or punitive damages for intentional and/or knowing conduct, damages for emotional distress, statutory interest, and attorneys' fees. As pled, these amounts would well exceed the sum of \$75,000.

REMOVAL IS PROCEDURALLY CORRECT

11. This Notice of Removal is timely under 28 U.S.C. § 1446(b). State Farm was served with process on September 10, 2019.

12. Venue is proper in this Division under 28 U.S.C. § 1441(a) because this district and division embrace the place in which the removed action has been pending.

13. In accordance with 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders in the State Court Action are attached herein to the Index of Matters Filed (Exhibits 1A-1D).

14. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of State Farm's Notice of Removal was promptly given to all parties and to the clerk of the 148th Judicial District Court of Nueces County, Texas.

15. All documents required by Local Rule 81 to be filed with this Notice of Removal are attached herein to the Index of Matters Filed (Exhibit 1).

PRAYER

State Farm Lloyds respectfully requests that the State Court Action be removed and placed on this Court's docket for further proceedings. State Farm Lloyds also requests any additional relief to which it may be justly entitled.

Respectfully submitted,

/s/ Sarah A. Nicolas

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document was e-served on all counsel of record on October 8, 2019, as indicated below:

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